

## STATE OF SOUTH CAROLINA

(Caption of Case)

E. R. (Ron) Rutter Complainant/Petition v. United  
Telephone Company of the Carolinas, d/b/a EmbarqBEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

## COVER SHEET

DOCKET

NUMBER: 2008 - 232 - CPostpaid ledDate S.A.Date 9/19/08

(Please type or print)

Submitted by: Scott ElliottTime: 12:05SC Bar Number: 1872Address: 721 Olive StreetTelephone: 803-771-0555Columbia, SC 29205Fax: 803-771-8010

Other: \_\_\_\_\_

Email: sellott@elliottlaw.us

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

## DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition
 ☐ Request for item to be placed on Commission's Agenda expeditiously

☐ Other: \_\_\_\_\_

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)		
<input type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input checked="" type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition
<input checked="" type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other: Extension Request
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest	<input type="checkbox"/> by Consent
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit	
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report	

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PSC SC  
DOCKETING DEPT

ORIGINAL

**ELLIOTT & ELLIOTT, P.A.**

**ATTORNEYS AT LAW**

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COLUMBIA, SOUTH CAROLINA 29205

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SCOTT ELLIOTT

TELEPHONE (803) 771-0555

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September 18, 2008

**VIA HAND DELIVERY**

Charles L. A. Terreni, Esquire

Chief Clerk and Administrator

Public Service Commission of South Carolina

101 Executive Center Dr., Suite 100

Columbia, SC 29210

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SEP 18 2008

PSC SC  
DOCKETING DEPT.

RE: E. R. (Ron) Rutter Complainant/Petitioner v. United Telephone Company  
of the Carolinas, d/b/a Embarq  
Docket No. 2008-232-C

Dear Mr. Terreni:

Enclosed please find for filing an original and ten copies of a Motion for Partial Judgment in the above referenced matter. I have also included an extra copy, which I would ask you to date stamp and return to me via my courier.

If you have any questions or I can be of further assistance, please do not hesitate to contact me.

Sincerely,

ELLIOTT & ELLIOTT, PA



Scott Elliott

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2008 SEP 18 PM 11:11  
PUBLIC SERVICE  
COMMISSION

SE/jcl

Enclosures

cc: All parties of record w/enc.

**BEFORE THE  
PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA  
DOCKET NO. 2008-232-C**

IN THE MATTER OF:

E.R. (Ron) Rutter Complainant/  
Petitioner v. United Telephone  
Company of the Carolinas, d/b/a  
Embarq

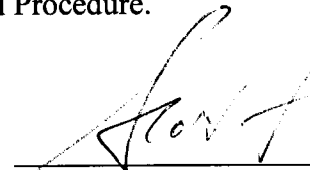
**MOTION FOR PARTIAL DISMISSAL  
OR, IN THE ALTERNATIVE,  
PARTIAL JUDGMENT ON THE  
PLEADINGS**

Please take notice that the Respondent United Telephone of the Carolinas, d/b/a Embarq (“Embarq”), by and through its undersigned counsel, hereby moves pursuant to Rules 12b and 12c SCRCF for an order partially dismissing the Complaint or, in the alternative, granting Embarq partial judgment on the pleadings.

The Petitioner E. R. (Ron) Rutter, purporting to act in a representative capacity for others not party to this proceeding, requests that the South Carolina Public Service Commission (“Commission”) order Embarq to provide the Petitioner with DSL service and complains to the Commission regarding service issues that other persons, not parties, allegedly have had with Embarq. Under federal and state law, the South Carolina Public Service Commission does not have authority to regulate DSL or to grant the relief requested in the Complaint. Further, there exists no legal authority for the Petitioner to act in a representative capacity for persons not party to these proceedings. The pleadings demonstrate that Embarq is not liable to the Petitioner for the relief requested in his Complaint as it relates to the provision of DSL service or to persons not party to the Complaint.

Accordingly, Embarq respectfully requests that Mr. Rutter's Complaint be dismissed to the extent it asks for relief related to DSL services or relief on behalf of persons not a party to this Complaint. In the alternative, Embarq is entitled to partial judgment on the pleadings with respect to the Petitioner's request that the Commission order the Respondent to provide DSL Service and with respect to those claims related to persons not parties to the Complaint.

This motion is based upon the pleadings, applicable state and federal law and the applicable South Carolina Rules of Civil Procedure.



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Embarq  
1313 Blair Stone Road  
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850-878-0777 (F)

Attorneys for Respondent United  
Telephone Company of the Carolinas  
d/b/a Embarq

September 18, 2008

ORIGINAL

### CERTIFICATE OF SERVICE

The undersigned employee of Elliott & Elliott, P.A. does hereby certify that she has served below listed parties with a copy of the pleading(s) indicated below by mailing a copy of same to them in the United States mail, by regular mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

RE: E.R. (Ron) Rutter Complainant/Petitioner v United Telephone Company of the Carolinas, d/b/a Embarq

DOCKET NO.: 2008-232-C

PARTIES SERVED: Jeffery M. Nelson, Esquire  
Office of Regulatory Staff  
1401 Main Street, Suite 900  
Columbia, SC 29201

E. R. (Ron) Rutter  
101 Mariners Cove Road  
Hodges, SC 29653

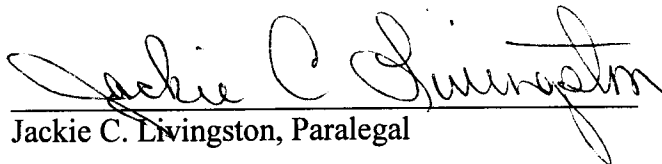
PLEADING: MOTION FOR PARTIAL DISMISSAL OR, IN THE  
ALTERNATIVE, PARTIAL JUDGMENT ON THE  
PLEADINGS

SC PUBLIC SERVICE  
COMMISSION

2008 SEP 18 PM 1:11

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September 18, 2008

  
Jackie C. Livingston, Paralegal